

DECISION



24969
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-207495

DATE: April 22, 1983

MATTER OF: Graham Associates, Inc.

DIGEST:

GAO will not consider objections regarding solicitation specifications which protester was obligated to meet by virtue of prior contracts for virtually identical work since protester is required to submit all claims arising under that contract to the contracting officer. GAO consideration of objections would permit protester to circumvent claim resolving process of protester's prior contract since a favorable decision by GAO could be used as a basis to challenge the prior contract.

Graham Associates, Inc., protests Jacket 540-756 issued by the Government Printing Office (GPO) to obtain composition, illustration and other printing services for the Army, contending that the specification is ambiguous, inadequate, and inappropriate.

Graham states that it was the successful bidder upon the predecessor GPO contract No. E-1966 dated April 14, 1981 for these same Army requirements. Graham argues that its present protest results from its experience under its 1981 contract, in that:

"Graham's experience in performing under the terms and conditions of the 1981 contract is relevant to one's interpretation of the 1982 specifications; it clearly demonstrates the ambiguities resulting from such specification language as well as the impossibility of performance built into the 1982 contract. * * * [T]he contract specifications (both for 1981 and 1982) are so poorly worded that numerous contract modification and cost overruns are inherent. As a result, Graham lost a substantial amount of money in fulfilling its obligations under the 1981 contract * * *."

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Consistent with this overall complaint, Graham repeatedly associates the difficulties it experienced in fulfilling the 1981 contract, which it describes as "essentially identical to the 1982 Contract bid specifications protested herein," with its specific objections to various aspects of the current specifications. Specific examples of Graham's inability to interpret the 1982 specifications include its attacks upon the Caution, Exhibits, Materials Furnished by the Government and General Proofing Requirements clauses, which allegedly resulted in additional costs that GPO refused to reimburse under its 1981 contract. In summary, the record shows that Graham's present protest is closely tied to, if not inextricably intertwined with, the problems encountered under its 1981 contract with GPO.

So far as its performance under the 1981 contract is concerned, Graham is free to challenge these specifications under the Disputes Clause of its 1981 contract. In fact, under the terms of the Disputes Clause of its 1981 contract, Graham is required to submit all such claims to the contracting officer, with right of appeal to the Public Printer. We therefore do not think our Office should provide Graham with what is essentially another forum to decide issues related to potential claims under its 1981 contract. See ConDiesel Mobile Equipment Division, B-201568, July 30, 1981, 81-2 CPD 67. Were we to consider Graham's challenge to the specifications, we would permit Graham, through the bid protest process, to circumvent the claim resolution process of its 1981 contract. Consequently, if Graham wants to argue that these specifications are impossible to meet, it should make its arguments under the Disputes Clause of the 1981 contract with GPO and not before our Office in a proceeding designed to force a change in specifications. ConDiesel, *supra*.

We recognize that the materials Graham furnished indicate that it has received additional compensation from GPO in settlement of its claim that GPO failed to furnish suitable materials during contract performance. However, because Graham states that its acceptance of that settlement was under duress and because Graham's present protest relates to a different theory of recovery, it is not certain that that settlement foreclosed Graham's right to seek further relief under the Disputes Clause of its 1981 contract.

Moreover, Graham's detailed analysis of its experience under its 1981 contract shows that it has ample knowledge of just how GPO interprets the various clauses Graham alleges are ambiguous. Consequently, whatever may be the case for bidders that lack Graham's first-hand experience (and we note that eleven firms thought that the specification provided an adequate basis for bidding), it is clear that Graham had a full understanding of GPO's intentions and how GPO interprets the various clauses in question by virtue of Graham's experiences under its 1981 contract, such that Graham could have prepared a knowledgeable bid had its interests so dictated.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel